THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No.5125 of 2006

Date of Decision: 9 - 10 - 2006

Davinder Sharma **.....Petitioner**

v.

Saroj Devi **.....Respondent**

CORAM: HON'BLE MR.JUSTICE P.S.PATWALIA

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Present: Mr.Sudhir Paruthi, Advocate
for the petitioner.

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P.S.PATWALIA, J. (Oral)

The present revision petition has been filed challenging orders dated 17.9.2005 passed by the learned Civil Judge (Jr.Division), Jalandhar and 2.5.2006 passed by the learned Additional District Judge, Jalandhar whereby an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure filed by the plaintiff, respondent in this revision petition, was allowed.

A reading of the orders would show that before the trial Court the plaintiff had contended that she was inducted as a tenant under one Vedic Putri Pathshala and was paying rent to Shri B.K.Duggal, Manager of the aforesaid Pathshala who had been issuing receipts regularly. She had stated that defendant Davinder Sharma was seeking to forcibly evict her from the said property as a result of which she had approached the civil Court by way of civil suit.

In reply various objections were raised and it was stated that the suit in fact was filed at the behest of Shri B.K.Duggal, the earlier Manager, who had

since been expelled on account of involvement in criminal activities and an FIR was registered against him. It was alleged that the receipts were forged and fabricated.

The trial Court allowed the application with the following observations:-

> "I have gone through the contents of the file and given a thoughtful consideration to the contentions put forth by counsels for the parties. The perusal of the challan as alleged by the defendant/respondent reveals that the same was in respect of FIR registered in the year 2000 whereas it has been specifically pleaded by the plaintiff/applicant that she was inducted as tenant in the year 2003 accordingly the address given in the said challan cannot be inferred to be the true address of the applicant/plaintiff on the other hand the applicant/plaintiff has placed on record rent receipt issued by former Manager of the said Vedic Putri Pathshala meaning thereby that there is a document which is a prima facie proof of the fact that the applicant/plaintiff is a tenant in the property in dispute. Whether or not they are authentic or are false and fabricated is a matter which can be decided only on the basis of evidence to be adduced by the parties. Accordingly the applicant/plaintiff has made out a prima facie case in her favour and she being a tenant in possession, on this count, the balance of convenience also tilts in her favour and if she is dispossessed forcibly, it would definitely mean that an irreparable loss shall ensure to her. That being so the application is hereby allowed and the respondent/defendant is hereby restrained from interfering in the peaceful possession of the applicant/plaintiff, except in due course of law."

Before the lower Appellate Court the petitioner produced an affidavit

executed by Shri Duggal wherein he had stated that he never received any rent from the plaintiff. The lower Appellate Court rejected the said contention after noticing that the same had been secured by the petitioner after the order of interim injunction had been granted in favour of the plaintiff by the trial Court. Still further the rent receipts placed on record by the plaintiff prima facie prove the status of the plaintiff as a tenant. Hence, the appeal filed by the petitioner was dismissed.

After having heard learned counsel for the petitioner and perusing the orders passed by the Courts below, I find no error in the view taken by the Courts below. A prima facie finding has been recorded keeping in view the rent receipts produced by the plaintiff and the pleadings of the parties. I find no reason to interfere in the orders passed by the Courts below in this revision petition. The same is accordingly dismissed in limine.

(P.S.PATWALIA)
JUDGE

October 9, 2006.

RC